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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|--------------------------|------------------|
| 10/811,667 | 03/29/2004 | Derrick Douglas Little | 9D-RG-20087 CIP | 2435 |
| 7590 | 03/20/2007 | | EXAMINER | |
| John S. Beulick Armstrong Teasdale LLP One Metropolitan Square, Suite 2600 St. Louis, MO 63102 | | | SUERETH, SARAH ELIZABETH | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3749 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 03/20/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|---------------------------|------------------|--|
| Office Action Summary | Application No. . | Applicant(s) | |
| | 10/811,667 | LITTLE ET AL. | |
| | Examiner Sarah Suereth | Art Unit 3749 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 February 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-7,10-16,18-22 and 25-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-7,10-16 and 18-22,25-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed on 02/20/07 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-7, 10-13, 16, 20-22, and 25-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (6234161) in view of Waite (6050893).

Levi discloses: a gas burner (20-23), a cooktop (5) configured to cover a burner box (102) and having at least one peripheral vent cut (120,121) configured to vent outside air into the burner box to provide air for the gas burner (col. 4, lines 13-16); and a vent trim (13) attached to said cooktop and covering the vent cut (120,121), said vent trim having a surface with openings (120,121) above a top surface of the cooktop (Figure 1), wherein said openings are configured to allow outside air to enter the vent cut through the vent trim (col. 4, lines 13-16).

Regarding claims 6,7,12,13,21,22,27 and 28, the Levi vent cuts are regarded as "defining a recessed corner of said cooktop", as the vent cuts (120,121) are located in the rear corners of the cooktop (Figure 1), and also as being located "along an edge of

said cooktop", as alternate vent cut (124) is located along the edge of the cooktop (Figure 1).

Regarding claims 10 and 25, the vent cover also has a raised surface that is capable of isolating the vent opening from spills on the cooktop (col. 2, lines 41,42).

As discussed above, Levi discloses the claimed invention with the exception of a mounting clip overlapping a bottom surface of the cooktop. Levi discloses mounting the vent trim to the cooktop surface by seals (109,110).

Waite discloses mounting a vent cover (2) to a lower surface (5) via clips (8). Waite teaches that the clips provide the advantage of allowing the vent cover to be installed quickly and conveniently (col. 2, lines 55-58). This is regarded as meeting the claimed limitation of being "removable".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Levi apparatus by replacing the Levi seals with the Waite clips in order to allow the vent to be quickly installed onto the cooktop surface (col. 1, line 15).

Waite is considered to be analogous art, because it is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the particular problem applicant was concerned with was mounting a vent cover to a surface.

4. Claims 3, 4, 14, 15, 18, 19, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levi (6234161) in view of Waite (6050893), further in view of Taplan et al (5653219).

As discussed above, Levi in view of Waite discloses the claimed invention with the exception of teaching that the vent trim is sealed to the cooktop in water-tight engagement with adhesive tape.

Taplan discloses: a gas burner (3), a cooktop (2) having at least one peripheral vent cut (8) and a vent trim (9) attached to said cooktop and covering the vent cut (Figure 2).

Regarding claims 3, 8, 14, 18, 23 and 29, the vent trim is sealed in water-tight engagement (col. 1, lines 48).

Regarding claims 4, 15, 19 and 30, the seal is adhesive tape (col. 2, line 64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Levi in view of Waite apparatus with the adhesive seal of Taplan in order to provide a water-tight yet elastic seal between the vent cover and the cookplate (col. 2, lines 63-68).

Response to Arguments

5. Applicant's arguments filed 2/20/07 have been fully considered but they are not persuasive.

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6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Levi discloses a vent cover for a stove top that is mounted with seals. Waite discloses an alternative method for mounting a vent cover to an underlying surface. Waite teaches that his attachment method provides for easy installation, easy removal of the cover when desired, and inexpensive manufacturing (col. 1, lines 47-51).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

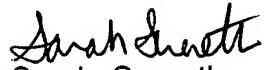
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Monday to Thursday 7:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Rinehart can be reached on (571) 272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sarah Suereth
Examiner
Art Unit 3749


KENNETH RINEHART
PRIMARY EXAMINER